

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EDWARD M. OLSEN,

Plaintiff,

v.

KITSAP COUNTY et al.,

Defendants.

No. 10-5773RBL/JRC

REPORT AND RECOMMENDATION

**NOTED FOR:
January 28, 2011**

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. On November 1, 2010, plaintiff was ordered to file an amended complaint to cure defects in the original filing (ECF No. 5). Plaintiff has failed to comply with that order, and as a result failed to prosecute this action. The court now recommends dismissal of the action with prejudice.

In the order, the court noted that plaintiff complained of inadequate dental care, but did not provide any details. The complaint did not meet the pleading requirements of Fed. R. Civ. P. 8 (a). Plaintiff was given until December 3, 2010 to file an amended complaint. As of January

1 3, 2011 no amended complaint has been filed and the court now recommends this matter be
2 dismissed.

3 Fed. R. Civ. P. 41 (b) allows a court to dismiss an action if a plaintiff fails to prosecute
4 the action or fails to comply with a court order. The dismissal operates as adjudication on the
5 merits. The court recommends this action be DISMISSED WITH PREJUDICE for failure to
6 prosecute and failure to comply with a court order.
7

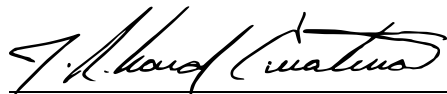
8 APPEALABILITY

9 The court does not believe that an appeal from a dismissal in this case would be in good
10 faith. Therefore the undersigned recommends the court certify in writing that plaintiff should not
11 be allowed to proceed in forma pauperis on appeal pursuant to 28 U.S.C. 1915 (A) (3).
12

13 CONCLUSION

14 This court recommends this action be DISMISSED WITH PREJUDICE. Pursuant to 28
15 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days from
16 service of this Report to file written objections. See also Fed. R. Civ. P. 6. Failure to file
17 objections will result in a waiver of de novo review by the District Court Judge. See 28 U.S.C.
18 636 (b)(1)(C). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set
19 the matter for consideration on **January 28, 2011**, as noted in the caption.
20

21 DATED this 3rd day of January, 2011.

22
23 

24 J. Richard Creatura
25 United States Magistrate Judge
26